

AFFIDAVIT

COUNTY OF COMAL  
STATE OF TEXAS

PERSONALLY CAME AND APPEARED BEFORE ME the undersigned,  
BRANDY THOMAS, a major domiciliary of New Braunfels, Texas, who after being  
duly sworn did depose and state as follows:

1. My name is Brandy Thomas. I reside at 366 Copper Mountain, New Braunfels,  
Texas 78130-7020.
2. I am not employed or affiliated with Luv n' care, and to my knowledge no one in  
my family is employed by them or affiliated with it.
3. In approximately the summer of 2007, I went to a Target store in San Antonio,  
Texas to buy "Nuby" baby products, although I subsequently decided not to buy  
them from Target. Later, I went to a Walgreens store in San Antonio, Texas  
where I saw what I thought were the exact same items as I had viewed in the  
Target store. They appeared to me to be identical to the Nuby drinking products  
that I had seen with the Nuby trademark on them in the Target store, so I  
purchased those products at the Walgreens store thinking them to be Nuby  
products. The attached are photographs of what I purchased. I purchased four  
products from Walgreens at that time.
4. I subsequently had a problem with one of the drinking products, all of which I  
thought were Nuby products. I subsequently sent all four products to Luv n' care,  
Ltd., making a complaint about same. Upon making my complaint, I learned that  
two of the products I purchased, which I thought by their appearance and style  
were Nuby products, were in fact products manufactured and distributed by  
another entity other than Luv n' care, Ltd., and were in fact not Nuby products  
although they appeared to me to be same.
5. Upon learning of this mistake I agreed to give this affidavit. My purchasing of  
the non-Nuby products was due to the fact that the products which I did purchase  
were so similar to the Nuby products that I readily picked them up as being those  
sold under the Nuby trademark.

THUS DONE AND SIGNED ON THIS 17<sup>th</sup> day of December 2008 in New  
Braunfels, Texas, before me the Notary Public and undersigned two witnesses.

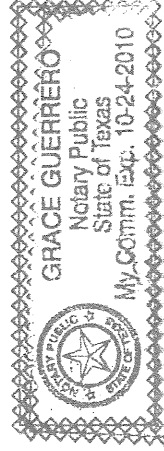
WITNESSES:

Bobbie Anderson  
Print Name: Bobbie Anderson

Brandy Sue Thomas  
AFFIANT

Megan Timmermann  
Print Name: Megan Timmermann

Grace Guerrero  
NOTARY PUBLIC





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